

**BYLAWS AND RULES OF PROCEDURES  
FOR COCHISE COUNTY  
BUILDING CODE ADVISORY AND APPEALS BOARD**

**ARTICLE 1-PREAMBLE**

The Cochise County Building Code Advisory and Appeals Board (Board) was established by the Board of Supervisors pursuant to A.R.S. §§ 11-861 and -862 and pursuant to Ordinance No. 045-13. The functions of the Board are i) to hear and decide appeals of orders, decisions or determinations made by the Building Official relating to the application and interpretation of the adopted Cochise County Building Codes; ii) to determine the suitability of alternative materials and construction and to permit interpretations of the provisions of the Building Codes; and, iii) to advise the Building Official and the Planning Department on any proposed revisions or additions to the Cochise County Building Safety Codes.

The purpose of these *Bylaws and Rules of Procedure* shall be to implement Ordinance 045-13.

**ARTICLE 2 – MEMBERSHIP**

1. Composition: Members of the Board shall be appointed by the Board of Supervisors. It shall be composed of seven (7) members with the following qualifications:
  - A. An architect duly licensed in the state of Arizona.
  - B. A professional engineer duly licensed in the state of Arizona.
  - C. A general contractor duly licensed in the state of Arizona.
  - D. A person representing the public and a resident of the county.
  - E. A person engaged in the electrical, mechanical, or plumbing trade.
  - F. A contractor with experience in green building.
  - G. A representative from a Fire Department or with a specialized knowledge of fire codes.
2. Removal from Office: The Board of Supervisors may remove any member for neglect of duty, inefficiency, or misconduct in office.

3. Vacancy: Vacancies created by any cause shall be filled for the unexpired term by appointment of the Board of Supervisors, and in the case of Officers by election by the Board from their membership.

### **ARTICLE 3 – OFFICERS**

1. The officers of the Board shall be:
  - A. Chair: The Chair shall preside at all meetings and public hearings of the Board, have general supervision of the conduct of the affairs of the Board, and perform such other duties as are usually exercised by the Chair of a board.
  - B. Vice-Chair: In the Chair's absence, the Vice-Chair shall perform the duties of the Chair. In the event that both the Chair and Vice-Chair shall be absent, then the members present shall choose one from among their number to be Chair pro-tem for that meeting.
  - C. Secretary: The Building Official shall serve as an ex-officio member of the Board, without vote, and serve as the secretary to the Board. Duties shall include keeping a written record of all business transacted, notify members of all meetings, keep on file all official records and be responsible for serving legal notice of all public hearings.
  - D. The officers shall be elected each year from among the members of the Board for a one-year term at the Annual Meeting, with the exception of the Secretary who shall be appointed.
2. Legal Counsel: The County Attorney shall render all legal counsel, and shall defend the Board in all legal actions. Advice of legal counsel shall be received and entered in the minutes before disposition of any question of law, or matter requiring legal interpretation or advice unless the Board has obtained the advice of legal counsel in Executive Session.
3. Conflict of Interest Policy: All Members and Officers shall be governed by the Conflict of Interest Policy set forth in Title 38, Chapter 3, Article 8 of the Arizona Revised Statutes.

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## **ARTICLE 4 – MEETINGS IN ADVISORY CAPACITY**

1. Annual Meetings: In its advisory capacity, beginning in 2013, the Building Board shall hold an annual meeting each August or September. The installation of new members and election of officers shall be held at the annual meeting.

Other Meetings: Meetings other than the annual meeting are to be held on an "as needed" basis as determined by the Chair, the Building Official, the Community Development Director, or the Board of Supervisors.

2. Meetings Open to the Public: All meetings and hearings shall be open public meetings pursuant to the requirements and procedures of Arizona's open meetings laws; and all official votes or actions must be in session open to the public. Executive sessions may be convened by the affirmative vote of the majority of the members present only pursuant to the requirements and procedures of the Arizona Revised Statutes.
3. Notifications: Notice of all meetings shall be furnished to each member at least 48-hours in advance of a meeting. The attendance of a member at a meeting shall constitute a waiver of notice of such meeting, except where a member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Docket packets shall be furnished to each member at least 48-hours in advance of any meeting.
4. Quorum: A majority of four (4) members shall constitute a quorum.
5. Minutes & Records: The Board shall keep minutes and records of all its resolutions, transactions, findings, and determinations and, if the vote is not unanimous, the vote of each member present shall be recorded with each order or resolution. Votes taken may be by roll call at the discretion of the Chair and the Chair shall be the last to vote. The minutes, records, resolutions, transactions, findings and determination shall be of public record.
6. Decisions of the Board: Majority votes on any matter shall be the final decision of the Board. A simple majority of legal votes cast by those members present and voting, a quorum being present, shall be sufficient to carry all motions.
7. Recommendation to Board of Supervisors: All recommendations shall be forwarded by the Secretary to the Planning Director and Board of Supervisors.
8. Rules of Order: These *Bylaws and Rules and Procedures* shall govern the proceedings of all meetings, subject to interpretation by the Chair.

9. Adjournment: A motion to adjourn shall always be in order, and shall be carried by a majority vote of members present.
10. Other Procedures: If nothing in these by-laws or statute governs a particular situation, the Chair, in consultation with the Secretary or the County Attorney, shall prescribe a procedure to address the situation, which procedure shall do substantial justice to the persons and entities affected.
11. Order of Business:
  - A. Call to Order by Chair or Vice-Chair
  - B. Roll Call
  - C. Determination of a Quorum
  - D. Approval of Minutes of last preceding meeting
  - E. Call to Public
  - F. Old Business
  - G. New Business
  - H. Adjournment

The above order of presenting business may be changed by the Chair to accommodate persons to be heard on matters for consideration before the Board.

12. Writings Required: Every matter on which the Board is authorized or required to act, brought before it by any person, official, organization or agency, shall be presented in writing or on forms provided for the purpose, and shall include all information necessary for a clear understanding and intelligent action by the Board. Such information may include maps, surveys, drawings, plans, charts, and other descriptive data.
13. Posting of Agenda: The agenda of cases to be heard shall be posted in the physical location required for posting other legal notices for the Board of Supervisors not less than 24-hours before each regular or special meeting.

## **ARTICLE 5 – MEETINGS IN APPELLATE CAPACITY**

1. Appeals: Appeals to the Board, in its capacity to hear appeals from orders, decisions or determinations made by the Building Official relating to the application and interpretation of the adopted Cochise County Building Codes, may be filed by any property owner or tenant or other designee, or by any government officer, department, board, or bureau.
2. Thirty Day Limit: Appeals must be filed within thirty (30) days from the date the Building Official makes the order, decision or determination that is being

appealed. An appeal shall be made using the appeal form attached hereto as Exhibit A. Any other communication purporting to be an appeal shall be deemed a mere notice of intention to file and shall not be deemed a filing to comply with the requirements of timely filing.

3. Materials Deadline: Materials for the Board to consider in support of or in opposition to an appeal must be received at least ten (10) calendar days prior to the scheduled meeting. Failure to supply the required information within the time indicated may be considered by the Board as a failure to comply with this rule and the case may be dismissed for failure of timely filing.
4. Hearings Scheduling: Hearings shall be scheduled within 30 days of receipt of an appeal form.
5. Who May Appear: The appellant and any person who may be affected by the case may appear on his own behalf or be represented by counsel.
6. Failure to Appear: If the appellant fails to appear at the hearing, the Board may continue the hearing or dispose of the matter on the record before it and hear those who have appeared in response to the notice of hearing.
7. A Quorum: A majority of four (4) members shall constitute a quorum.
8. Order of Proceedings: Each appeal shall be heard in the following order, subject to the discretion of the Chair:
  - A. The Chair shall call the docket number and describe the docket.
  - B. The Building Official shall summarize relevant information and issues.
  - C. The appellant or appellant's representative may make a statement in support of the appeal.
  - D. The Building Official, or representatives, may be heard.
  - E. The appellant may be heard in rebuttal.

Questions and discussion may then follow from Board members, followed by a vote; provided, however, the Board may take a case under advisement for later consideration and determination, or may defer action whenever it concludes that additional evidence is needed or further study is required, but in all events the Board should decide a case within seven (7) days of the hearing. The Board's decision shall be recorded on the form attached hereto as Exhibit B.

9. Burden of Proof: The burden of proof shall rest with the appellant.

10. Simple Majority: A simple majority of legal votes cast by those members present and voting, a quorum being present, shall be required in order to carry all substantive motions. A member may disqualify himself or herself from voting whenever he/she has a personal or monetary interest in the property concerned in the case, or will be directly affected by the decision of the Board, or believes any conflict of interest exists. Such disqualification shall not operate to defeat the existence of a quorum.
11. Appeal to Board of Supervisors: Any party that disagrees with the decision of the Board may appeal that decision to the Board of Supervisors by delivering a request for an appeal in writing, together with the written decision of the Board, sitting in its appellate capacity, to the Clerk of the Board of Supervisors within seven (7) days of receipt of the decision. The Board of Supervisors shall hold a hearing on the appeal within thirty (30) days of receipt of the appeal.

#### **ARTICLE 6 – AMENDMENTS OF BYLAWS & RULES OF PROCEDURE**

These *Bylaws and Rules of Procedure* may be amended by the Board of Supervisors at any time.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2013

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Ann English, Chair  
Cochise County Board of Supervisors

**ATTEST:**

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Clerk of the Board

**APPROVED AS TO FORM:**

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Adam Ambrose,  
Civil Deputy County Attorney